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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,508	11/20/2001	Bernard Douc	0502PUSA	8601

7590

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EXAMINER

NGUYEN, PHUNG

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/988,508

Applicant(s)

DOUET, BERNARD

Examiner

Phung T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Specification***

1. This application is informal in the arrangement of the specification.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

**Note: The headers are missing: Background of the invention, Summary of the invention, Brief description of the drawings, and Detailed description of the embodiments.**

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 4, 5, 6, 8, 9, 10, 12, 14, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 1, the terms “especially” and “preferable” render the claim indefinite.
- Claim 3, line 2, the term “preferably” renders the claim indefinite.
- Claim 4, line 2, the term “preferably” renders the claim indefinite.
- Claim 5, line 1, the term “preferably” renders the claim indefinite.
- Claim 6, line 3, the term "e.g." renders the claim indefinite.
- Claim 8, line 2, the term “preferably” renders the claim indefinite.
- In claim 9:
  - Line 2, the term “especially” is indefinite.
  - Line 10, the term “especially” is indefinite.
- Claim 10, line 4, the term "e.g." renders the claim indefinite.
- Claim 12, lines 3 and 4, the term “especially” renders the claim indefinite.
- Claim 14, line 4, the term "e.g." renders the claim indefinite.
- Claim 16, lines 2 and 3, the term “especially” renders the claim indefinite.
- Claim 17, line 2, the term “especially” renders the claim indefinite.

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross et al. [U.S. Pat. 6,218,961] in view of Hassett et al. [U.S. Pat. 5,289,183]

**Regarding claim 1:** Gross et al. disclose a method and system for proximity detection and location determination which comprises monitoring of the position of at least one track-guided vehicle and sending the warning signals at least to other vehicles being in the local close zone (col. 6, lines 60-65, col. 7, lines 42-59, and col. 8, lines 6-13) and for comparison with the determined previously given data (col. 1, lines 64-67, and col. 2, lines 1-10). Gross et al. disclose the Global Positioning System (GPS) to locate the position of the vehicle (col. 10, lines 60-64). The device of Gross et al. does not show the use of transmitter/receiver units being provided in the area of the traveling over tracks as claimed. However, Hassett et al. disclose a traffic monitoring and management method and apparatus comprising the transceivers units 118-124 implanted in the roadway (col. 3, lines 25-35, col. 4, lines 50-59, and col. 8, lines 1-7) for locating the position of the vehicle. It is seen that using either GPS or roadway transceiver unit to provide an approximate location of the vehicle is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to substitute the GPS of Gross et al. with the

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roadway transceiver units of Hassett et al. in order to locate the position of the rail vehicle because reducing cost of the system would be desirable.

**Regarding claim 2:** Gross et al. show different warning signals corresponding to different dangerous situations (col. 1, lines 64-67, and col. 2, lines 1-9).

**Regarding claim 3:** Gross et al. disclose data concerning the position and identification to other vehicles being in the local close zone (col. 1, lines 29-36, and col. 9, line 36).

**Regarding claim 4:** Gross et al. disclose data concerning the position and identification of these vehicles and comparing them with those determined and given data concerning the distance to be traveling on (col. 1, lines 29-31, and col. 2, lines 39-57).

**Regarding claim 5:** Gross et al. disclose a check-up of the availability of the warning system (col. 8, lines 37-52).

**Regarding claim 6:** Hassett et al. disclose the transmitter-receiver units which are implanted in the area of the traveling and equipped with an encoding (col. 3, lines 25-35, and col. 8, lines 4-6).

**Regarding claim 7:** Hassett et al. disclose a storage at least of the data of the previous transmitter-receiver units (col. 4, lines 50-59) and these data together with identification-data of the vehicle are emitted with the emission of warning signals (see claim 1 above).

**Regarding claim 8:** Gross et al. disclose the warning signals are transferred via international alarm (col. 3, lines 17-21).

**Regarding claim 9:** All the claimed subject matter is already discussed in respect to claim 1 above.

**Regarding claim 10:** Hassett et al. disclose the transmitter-receiver units which are implanted in the area of the traveling and equipped with an encoding (col. 3, lines 25-35, and col. 8, lines 4-6).

**Regarding claim 11:** Gross et al. disclose the display 210 (col. 8, lines 9-22) is foreseen.

**Regarding claim 12:** Gross et al. disclose the monitoring the position in the front area in the locomotive and in the back side at the last wagon (col. 9, lines 19-32).

**Regarding claim 13:** Gross et al. disclose data concerning the position and identification of these vehicles and comparing them with those determined and given data concerning the distance to be traveling on (col. 1, lines 29-31, and col. 2, lines 39-57).

**Regarding claim 14:** Gross et al. disclose the unit for emission and for receiving signals is coupleable with driving units of the vehicle, e.g. a reducing the speed by braking (col. 8, lines 2-5).

**Regarding claim 15:** Hassett et al. disclose the units consist of transponder (col. 2, lines 31-41).

**Regarding claim 16:** Gross et al. disclose the warning signals is carried out via wireless (col. 7, lines 42-46).

**Regarding claim 17:** Gross et al. disclose the display 210 (col. 9, lines 33-44) for displaying the functionalibility of the system.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Hazen [U.S. Pat. 6,222,461] disclose an emergency warning system for vehicles.

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b. Gerszberg et al. [U.S. Pat. 5,864,304] disclose a wireless railroad grade crossing warning system.

c. Okamoto et al. [U.S. Pat. 4,986,384] disclose a remote control system of mobile objects.

d. Flick [U.S. Pat. 6,522,267] discloses a vehicle tracker conserving codes and related methods.

e. Wiita [U.S. Pat. 4,864,306] discloses a railway anticollision apparatus and method.

f. Erick [U.S. Pat. 6,345,233] discloses a collision avoidance using GPS device and train proximity detector.

g. Michalek [U.S. Pat. 5,620,155] discloses a railway signaling system for remotely operating warning devices at crossings and for receiving warning device operational information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 703-308-6730. The fax numbers for the organization where this application or proceeding is assigned are 703-305-3988 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.




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Examiner: Phung Nguyen

Date: March 16, 2003

  
DANIEL J. WU  
PRIMARY EXAMINER  
3/23/03